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Attorney for the Plaintiffs

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

J.S. and S.S., on behalf of
A.S.,

Plaintiffs,

v.

WEST MORRIS REGIONAL HIGH
SCHOOL DISTRICT BOARD OF
EDUCATION.

Defendant.

Civil Action

No. 2:22-00561-BRM-ESK

**CERTIFICATION IN RESPONSE TO
LOCAL CIVIL RULE 41.1
DISMISSAL NOTICE**

David R. Giles, being of full age, states as follows:

1. I represent the Plaintiffs in the above-captioned matter and in a related special education due process hearing pending before the New Jersey Office of Administrative Law.

2. On February 3, 2022, on behalf of the Plaintiffs, I filed the Verified Complaint in this matter (ECF 1).

3. By that Complaint, Plaintiffs appealed a decision of an Administrative Law Judge that denied their motion to enforce A.S.'s right to "curb to curb" transportation under the stay-put

provision of the Individuals with Disabilities Education Act (IDEA). 20 U.S.C. § 1415(j).

4. Along with the Complaint, I also filed an application for an Order to Show Cause (ECF 1-1, and 1-4 through 1-9).

5. By that application, Plaintiffs seek an order directing the Defendant to comply with IDEA's stay-put provision pending a final resolution of the parties' underlying dispute about transportation by implementing the curb to curb transportation called for by A.S.'s current Individualized Education Program (IEP).

6. A courtesy copy of Plaintiffs' application for an Order to Show Cause was served on the Board's attorney, Jodi Howlett, by email on that same day.

7. With Ms. Howlett's consent, a copy of the Summons and Complaint were served on the Defendant via United States Postal Service Priority Mail on February 4, 2022. See ECF 5 (Return of Service).

8. Since February 3, 2022, Plaintiffs have anxiously awaited the Court's response to their application for an Order to Show Cause as the Defendant has continued to deny A.S. the curb to curb transportation required by her IEP during the pendency of their special education due process hearing (hearings were held on June 1 and 3, 2022, and another hearing is scheduled to be held tomorrow, June 22, 2022).

9. In addition to having filed the application for an Order to Show Cause, Plaintiffs are also filing today a request for the Clerk to issue a default against the District for its failure to file an answer to the Complaint.

10. Unless this matter is resolved by a default judgment, Plaintiffs will seek leave to amend their application for an Order to Show Cause because, once they receive transcripts of the hearings that have occurred thus far in the due process hearing, they will be able to show definitively that the term, "curb to curb" transportation, as used in A.S.'s IEP, meant transportation with a pick-up and drop-off in front of Plaintiffs' home.

11. As demonstrated by the above, Plaintiffs have not failed to prosecute their claims and they intend to continue to do so if this matter is not dismissed.

I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

Dated: June 21, 2022

s/David R. Giles, Esq.
Attorney for Plaintiffs